



**COMMISSIONER'S DIRECTIVE # 55
JULY 2015**

SUBJECT: **Transportation Network Companies**

REFERENCES: IC 8-2.1-17; IC 8-2.1-19.1; IC 8-2.1-22

DISCLAIMER: Commissioner's directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore the information provided herein should only serve as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

I. INTRODUCTION

IC 8-2.1-19.1 as added by HEA 1278, SECTION 10, effective July 1, 2015, provides for the regulation of transportation network companies (TNCs). One of the requirements under this chapter is that a TNC must register with the Indiana Department of Revenue (the department) for a permit before it can legally operate in Indiana.

II. DEFINITIONS

The term "transportation network company" or "TNC" means an entity that:

- (1) does business in Indiana; and
- (2) uses a digital network to connect TNC riders to TNC drivers to request prearranged rides.

Except as otherwise provided in a written contract, a TNC is not considered to control, direct, or manage a personal vehicle or a TNC driver who connects to the TNC's digital network. A TNC is not a common carrier, contract carrier, or motor carrier.

The term "TNC driver" means an individual who:

- (1) receives:
 - (A) connections to potential TNC riders; and
 - (B) related services;from a TNC in exchange for payment of a fee to the TNC; and
- (2) uses a personal vehicle to offer or provide prearranged rides to TNC riders:
 - (A) upon connection through a digital network controlled by the TNC; and
 - (B) in exchange for compensation or payment of a fee.

A TNC driver is not a common carrier, contract carrier, or motor carrier.

The term "broker" means a person who:

- (A) is not a common carrier or contract carrier;
 - (B) is not a bona fide employee or agent of a common or contract carrier; and
 - (C) as principal or agent, sells or offers to sell transportation service subject to regulation under Article 2.1 of Title 8; or
- a person who negotiates for, or professes to be, by solicitation, advertisement, or otherwise, a person who sells, provides, furnishes, contracts, or arranges for transportation service subject to regulation under Article 2.1 of Title 8.

The term "digital network" means an online enabled application, software, website, or system offered or used by a TNC to enable the prearrangement of rides with TNC drivers.

The term "personal vehicle" means a vehicle used by a TNC driver to provide a prearranged ride; owned, leased, or otherwise authorized for use by the TNC driver; and not a taxicab, limousine, or other for-hire vehicle.

III. APPLICATION PROCEDURE FOR A TNC PERMIT

A TNC is required to have in place the following policies, guidelines, and requirements:

- A zero tolerance policy for drug and alcohol use by TNC drivers during any period when a TNC driver is engaged in, or is logged into the TNC's digital network but is not engaged in, a prearranged ride. The policy must include provisions for:
 - investigations of alleged policy violations; and
 - suspensions of TNC drivers under investigation.
- A requirement that a TNC driver's personal vehicle used to provide prearranged rides must comply with all applicable laws and regulations concerning vehicle equipment.
- Insurance requirements on a TNC driver, or a TNC on the TNC driver's behalf, that meet or exceed the requirements:
 - The motor vehicle insurance is issued:
 - by an insurance company that holds a certificate of authority to do insurance business in Indiana under IC 27-1-3-20; or
 - through a surplus lines producer licensed under IC 27-1-15.8.
 - The language of the motor vehicle insurance policy:
 - recognizes that the driver is a TNC driver or otherwise uses the personal vehicle to transport passengers for compensation; and
 - covers the driver while the driver is:
 - logged on to the TNC's digital network; or
 - engaged in a prearranged ride.
 - The motor vehicle insurance must meet the following coverage requirements while a TNC driver is logged on to the TNC's digital network but is not engaged in a prearranged ride:
 - Primary motor vehicle liability insurance in an amount equal to at least:
 - \$50,000 per person for death and bodily injury;
 - \$100,000 per incident for death and bodily injury; and

- \$25,000 per incident for property damage;
 - The insurance required above may be provided by any of the following:
 - Motor vehicle insurance maintained by the TNC driver;
 - Motor vehicle insurance maintained by the TNC; or
 - Motor vehicle insurance maintained by any combination of the two.
 - The motor vehicle insurance must meet the following coverage requirements while a TNC driver is engaged in a prearranged ride:
 - Primary motor vehicle liability insurance in an amount equal to at least \$1 million per incident for death, bodily injury, and property damage.
 - The insurance required above may be provided by any of the following:
 - Motor vehicle insurance maintained by the TNC driver;
 - Motor vehicle insurance maintained by the TNC; or
 - Motor vehicle insurance maintained by any combination of the two.
 - If motor vehicle insurance maintained by a TNC driver as described above lapses or does not provide the required coverage, the motor vehicle insurance maintained by the TNC must provide the required coverage beginning with the first dollar of a claim, and the insurance company that issues the motor vehicle insurance has a duty to defend the claim.
 - Coverage under motor vehicle insurance maintained by a TNC may not be dependent on a personal motor vehicle insurance company's first denying a claim for coverage under a personal motor vehicle insurance policy, nor may a personal motor vehicle insurance company be required to first deny a claim.
 - A motor vehicle insurance policy that meets the coverage requirements of subsection (a) satisfies the financial responsibility requirement of IC 9-25 while the driver of the personal vehicle is:
 - logged on to the TNC's digital network; or
 - engaged in a prearranged ride.
- Fare guidelines under which a TNC may charge a fare for prearranged rides that require the following:
 - Disclosure of the fare calculation method on the TNC's digital network;
 - Publication to TNC riders of applicable rates at the time of service;
 - Providing a TNC rider the option to receive an estimated fare before the TNC rider enters a personal vehicle operated by a TNC driver;
 - Payment of a fare only by electronic means using the TNC's digital network.A TNC driver may not solicit or accept cash payments from TNC riders.
- A privacy policy to protect the personal identifying information (PPI) of a TNC rider, which prohibits the disclosure of a TNC rider's PPI unless:
 - the TNC rider consents in writing to the disclosure;
 - the disclosure is required under law; or
 - the disclosure is necessary to:

- protect or defend; or
- investigate violations of;
the terms of use of prearranged rides.

The policy may authorize the disclosure of a TNC rider's name and telephone number by a TNC to a TNC driver to facilitate the provision of prearranged rides by the TNC driver to the TNC rider.

- Nondiscrimination and accessibility policies that comply with state and federal law. A TNC may not impose an additional charge on or a different fare schedule for a TNC rider who is an individual with a disability. At the time a TNC rider requests a prearranged ride through a TNC's digital network, the TNC shall provide the TNC rider an opportunity to indicate whether the TNC rider requires a vehicle that is wheelchair accessible. If the TNC is unable to make available a vehicle that is wheelchair accessible, the TNC shall inform the TNC rider of an alternative service that is wheelchair accessible.
- Record maintenance guidelines that require the following:
 - Records related to the enforcement of a zero tolerance policy must be maintained for at least two (2) years following the date on which a TNC rider reports a violation of the policy.
 - Individual trip records must be maintained for at least one (1) year from the date of each trip.
 - Records related to a TNC driver must be maintained for at least one (1) year following the date on which a TNC driver is no longer permitted to act as a TNC driver on the TNC's digital network.

To receive a TNC permit, a TNC must provide copies of these policies, guidelines, and requirements to establish that the TNC has satisfied the requirement that the TNC has these policies, guidelines, and requirements in place. Additionally, the TNC must complete an application form prescribed by the department and prove that the TNC can legally do business in the state by providing documentation from the Indiana Secretary of State's Office.

IV. REQUIREMENTS FOR A TNC TO OBTAIN A BROKER'S LICENSE

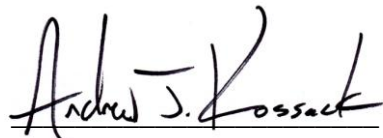
In addition to obtaining a TNC Permit, a TNC is required to obtain a broker's license from the department if a TNC contracts with an Indiana motor carrier, common carrier, or contract carrier (such as a limousine company) to provide transportation services through its digital network. In such cases, a TNC is acting as a broker because it is selling or offering to sell transportation service subject to regulation under Article 2.1 of Title 8 or it is negotiating for, or professing to be, by solicitation, advertisement, or otherwise, a person who sells, provides, furnishes, contracts, or arranges for transportation service subject to regulation under Article 2.1 of Title 8. Although a TNC driver is not a carrier, an entity that is already a carrier cannot be a TNC driver because it is not an individual and transportation is provided in a limousine or otherwise for-hire vehicle when not being used to provide a prearranged ride through the TNC's digital network. Therefore, if a TNC contracts with a carrier to provide transportation services through its digital network, the TNC is required to obtain a broker's license from the department; obtain a \$10,000 surety bond; and pay the appropriate license fees. However, because a TNC cannot be a common

carrier, a contract carrier, or motor carrier, it is not required to obtain emergency, temporary, or permanent authority to transport passengers.

V. REQUIREMENTS FOR A MOTOR CARRIER CONTRACTING WITH A TNC

An Indiana common carrier (such as a limousine company) regulated by the department that contracts with a TNC to provide transportation services through the TNC's digital network must also obtain contract carrier authority from the department because the carrier is acting as a contract carrier by transporting persons for compensation or hire under contract to a particular person, firm, or corporation. Therefore, the carrier must apply for permanent contract carrier authority, file their contracts with the department, and pay the appropriate fees with the department. However, if a common carrier already has permanent common carrier authority from the department, the application for permanent contract carrier authority will not be subject to protest and public hearing.

Further, if a TNC driver decides to become a motor carrier, the stipulation that a TNC driver is not a motor carrier will no longer apply, even if the carrier is an individual and transportation is provided in the individual's personal vehicle. The TNC driver in this case is voluntarily subjecting themselves to the motor carrier regulations under state and federal law. Therefore, the TNC driver will be required to obtain emergency, temporary, and permanent authority to transport passengers and pay the appropriate fees with the department. The TNC driver may also be subject to any public hearing requirements as a result.

A handwritten signature in black ink, reading "Andrew J. Kossack". The signature is written in a cursive style with a horizontal line underneath the name.

Andrew Kossack
Commissioner